LAND DISTURBING CASH DEPOSIT AGREEMENT

THIS LAND DISTURBING CASH DEPOSIT AGREEMENT (this "Agreement"), is made this _____ day of _____, 20___ among THE CITY OF HAMPTON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "City"), THE CITY OF HAMPTON, TREASURER, an agent of the City ("Escrow Agent"), and _____ (the "Owner") for the project located at _____.

WITNESSETH:

WHEREAS, simultaneously with this Agreement, Owner submits a *(check one)* __ Land Disturbance Plan, __ Plan of Development, __ Site Plan, __ Erosion and Sediment Control Plan, No. _____ dated _____, 20___ (the "Plan"), or ___ Agreement in Lieu of an Erosion and Sediment Control Plan (the "ALESP") to the City;

WHEREAS, pursuant to Chapter 13.1 of the City Code and the Plan, Owner also submits a Cash Deposit Bond (as defined herein and in the Plan/ALESP); and

WHEREAS, the City, Escrow Agent, and Owner desire to enter into this Agreement to memorialize their respective rights and responsibilities.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements, the parties hereto agree as follows:

1.   **Bond**. Pursuant to the Plan/ALESP and this Agreement, Owner herewith submits a cash deposit in the amount of _____ and ____/100 Dollars (*written dollar value*) ($_____) (*dollar value in figures*) (the "Bond").

2.   **Duties of Escrow Agent**. The Escrow Agent agrees to hold said Bond in escrow for the purpose of guaranteeing performance of the Owner's obligations under the Plan/ALESP dated _____, 20___, which was executed pursuant to Chapter 13.1 of the City Code.

3.   **Interest**. The Bond is deemed to be cash and shall bear no interest.

4.   **Release and Delivery of Bond**. Within sixty (60) days of achievement of adequate stabilization of the land-disturbing activity, the Bond shall be released or terminated upon issuance of a certificate of completion pursuant to § 13.1-25 by the Director of Public Works or his authorized designee or agent as defined in § 13.1-1 (the "Director"), with instructions that payment be made, in whole or in part, to the Owner and/or the City. The Escrow Agent shall refund the deposit, or any unused portion thereof, pursuant to the City's instructions. When delivering the Bond in accordance herewith, such delivery shall be made upon receipt of duplicate receipts.

5.   **Hold Harmless**. In the event the City desires to draw upon the Bond or permits the release of the Bond, in whole or in part, the Escrow Agent is authorized to pay over the Bond or any portion thereof to the Owner and/or the City as directed by a letter from the Director, the City Manager, the City Attorney, or their respective authorized designees; and except for intentional misconduct or gross negligence in the performance of its duties hereunder, the Escrow Agent shall not be liable for any claims, losses, or expenses, including reasonable attorney fees and litigation expenses arising out of, or in connection with, the administration of the Bond.

6.   **Incorporation of the Plan.**   Unless otherwise provided, the rights, obligations, and responsibilities of the Plan are incorporated as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals on the dates indicated.

OWNER *(attach additional signature pages if needed)***:**

Date: _____   By: _____
                                           Name:
                                           Title:

                                         Address: _____
                                                  _____
                                         Telephone No.: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to wit:

    I hereby certify on this _____ day of _____, 20___, that the foregoing Land Disturbing Cash Deposit Agreement was executed before me by _____ *(name),* _____ *(title)* of _____ *(company name)*. He/She is known to me personally or provided _____ as identification.

                                         _____
                                         Notary Public

My Commission Expires: _____
Registration No.: _____

<div align="center">*   *   *   *   *</div>

Date: _____   By: _____
                                           Name:
                                           Title:

                                         Address: _____
                                                  _____
                                         Telephone No.: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to wit:

    I hereby certify on this _____ day of _____, 20___, that the foregoing Land Disturbing Cash Deposit Agreement was executed before me by _____ *(name),* _____ *(title)* of _____ *(company name)*. He/She is known to me personally or provided _____ as identification.

                                         _____
                                         Notary Public

My Commission Expires: _____
Registration No.: _____

THE CITY OF HAMPTON, VIRGINIA:

Date: _____

By: _____
      Mary B. Bunting, City Manager or Authorized Designee

Approved as to form and legal sufficiency: **Approved as to content:**

By: _____   By: _____
      Senior Assistant City Attorney   Director of Public Works / Authorized Designee

THE CITY OF HAMPTON, TREASURER

Date: _____   By: _____
      Treasurer / Authorized Designee

      Name: _____
      Title: _____